

Decision **PROPOSED DECISION OF ALJ YACKNIN** (Mailed March 28, 2014)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric Company (U902E) for Authority to Enter into Purchase Power Tolling Agreements with Escondido Energy Center, Pio Pico Energy Center and Quail Brush Power.

Application 11-05-023  
(Filed May 19, 2011)

**DECISION DENYING COMPENSATION TO THE UTILITY CONSUMERS' ACTION  
NETWORK FOR FAILURE TO MAKE A SUBSTANTIAL CONTRIBUTION TO  
DECISION 13-03-029**

|   |  |
|---|--|
| <b>Claimant:</b> Utility Consumers' Action Network (UCAN) | <b>For contribution to D.13-03-029</b>     |
| <b>Claimed (\$):</b> 38,015.85                            | <b>Awarded (\$):</b> \$0.00 (reduced 100%) |
| <b>Assigned Commissioner:</b> Michael R. Peevey           | <b>Assigned ALJ:</b> Hallie Yacknin        |

**PART I: PROCEDURAL ISSUES**

|  |  |
|--|--|
| <b>A. Brief Description of Decision:</b> | Denies San Diego Gas & Electric Company (SDG&E) authority to enter into purchase power tolling agreements with Pio Pico Energy Center and Quail Brush Power at this time and grants SDG&E authority to enter into a purchase power tolling agreement with Escondido Energy Center. |
|--|--|

**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

|   | Claimant                | CPUC Verified |
|---|-------------------------|---------------|
| <b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b> |                         |               |
| 1. Date of Prehearing Conference (PHC):   | July 14, 2011           |               |
| 2. Other Specified Date for Notice of Intent (NOI):                               | N/A                     |               |
| 3. Date NOI Filed:  | August 3, 2011          |               |
| 4. Was the NOI timely filed?  |                         | yes           |
| <b>Showing of customer or customer-related status (§ 1802(b)):</b>                |                         |               |
| 5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:    | Comment 1               |               |
| 6. Date of ALJ ruling:  | Comment 1               |               |
| 7. Based on another CPUC determination (specify):                                 | Comment 1               |               |
| 8. Has the Claimant demonstrated customer or customer-related status?             |                         | yes           |
| <b>Showing of "significant financial hardship" (§ 1802(g)):</b>                   |                         |               |
| 9. Based on ALJ ruling issued in proceeding number:                               | Decision (D.) 10-05-013 |               |
| 10. Date of ALJ ruling:   | May 10, 2010            |               |
| 11. Based on another CPUC determination (specify):                                |                         |               |
| 12. Has the Claimant demonstrated significant financial hardship?                 |                         | yes           |
| <b>Timely request for compensation (§ 1804(c)):</b>                               |                         |               |
| 13. Identify Final Decision:  | D.13-03-029             |               |
| 14. Date of Issuance of Final Order or Decision:                                  | March 21, 2013          |               |
| 15. File date of compensation request:  | May 28, 2013            |               |
| 16. Was the request for compensation timely?                                      |                         | yes           |

**C. Additional Comments on Part I:**

| # | Claimant | CPUC | Comment   |
|---|----------|------|---|
| 1 | X        |      | Utility Consumers' Action Network (UCAN) filed its Notice of Intent with its showing of customer status on August 3, 2011.<br><br>UCAN's NOI states the following with regard to its customer status: |

|  |  |  |  |
|--|--|--|--|
|  |  |  | <p>The CPUC has repeatedly found that UCAN's bylaws "represent the interests of residential ratepayers." (<i>e.g.</i> D.10-05-013.) UCAN's articles of incorporation and bylaws have not been modified since those earlier findings. D.98-04-059 directs groups such as UCAN to indicate the percentage of their members that are residential ratepayers. UCAN has approximately 31,000 dues paying members, of whom approximately 90% are residential ratepayers. Although we've been able to establish anecdotally that many of those residential members are also owners of small businesses.</p> |
|--|--|--|--|

## PART II: SUBSTANTIAL CONTRIBUTION

### A. Did the Claimant substantially contribute to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

| Intervenor's Claimed Contribution  | CPUC Discussion  |
|--|--|
| <p>UCAN claims it substantially contributed to the Commission's recognition of the need to take into account reasonable forecasts of energy efficiency in evaluating SDG&amp;E's resource needs.</p> <p>UCAN claims it substantially contributed to the Commission's disapproval of the PPTA's for the Quail Brush Energy Project and the Pio Pico Energy Center because this new capacity is not needed, and that UCAN provided evidence demonstrating the lack of need for this additional generation.</p> | <p>No substantial contribution:</p> <p>D.13-03-029 did not disapprove the PPTAs because this new capacity is not needed; it found that new capacity is needed beginning in 2018.</p> <p>UCAN's presentation did not contribute to D.13 02 029's determination of a reasonable forecast of energy efficiency. As UCAN states in Part II.B.d. of its compensation request, "UCAN's testimony focused on SDG&amp;E's energy efficiency assumptions, recommending that SDG&amp;E use the assumptions adopted in the Commission's Standardized Planning Assumptions." D.13 02 029 (at 11-12) rejected this recommendation, and instead adopted SDG&amp;E's energy efficiency assumptions.</p> <p>UCAN did not participate with respect to challenging the results of the California Independent System Operator's Once-Through Cooling (OTC) Study for purposes of determining SDG&amp;E's resource needs. In any event, D.13 03-029 evaluated SDG&amp;E's resource needs based on the results of the OTC study, adjusted by SDG&amp;E's assumptions of uncommitted energy efficiency, demand response, and incremental combined heat and power, which deviated from the "Standardized Planning Assumptions."</p> |

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

|  | <b>Claimant's Assertion</b> | <b>CPUC Discussion</b>  |
|--|-----------------------------|---|
| <b>a. Was the Office of Ratepayer Advocates (ORA)<sup>1</sup> a party to the proceeding?</b>   | <b>Yes</b>                  | <b>Verified</b>   |
| <b>b. Were there other parties to the proceeding with positions similar to Claimant's?</b>   | <b>Yes</b>                  | <b>Verified</b>   |
| <b>c. If so, provide name of other parties:</b> Natural Resources Defense Council (NRDC) and California Environmental Justice Alliance (CEJA)  |                             | <b>Verified</b>   |
| <b>d. Intervenor's Claim of Non-Duplication:</b><br><br>UCAN claims that ORA's testimony addressed the energy efficiency assumptions at a high level only, in less than one page of testimony, while UCAN's testimony, in contrast, provided a critique of each of SDG&E's adjustments to the Commission's Standardized Planning Assumptions and quantitatively demonstrated how each adjustment contributed to an apparent resource need that is greater than the expected actual need.<br><br>UCAN notes that in supplemental testimony filed in May 2012, DRA, CEJA, and NRDC each submitted testimony stating that the CAISO should have assumed the same amount of energy efficiency as adopted by the Commission in the Standardized Planning Assumptions, consistent with UCAN's opening testimony position, and that UCAN did not file supplemental testimony. |                             | Because we find no substantial contribution, we do not reach the issue of whether the participation duplicated that of other intervenors. |

**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§§ 1801 & 1806):**

| <b>Intervenor's Claim of Cost Reasonableness</b>                                      | <b>CPUC Discussion</b>  |
|---|---|
| UCAN claims that it incurred relatively low costs of participating in the proceeding. | Because we find no substantial contribution, we do not reach the issue of whether the participation bears a reasonable relationship with benefits realized through participation. |

<sup>1</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

**B. Specific Claim:\***

| CLAIMED   |                    |       |         |                                |             | CPUC AWARD |      |          |
|---|--------------------|-------|---------|--------------------------------|-------------|------------|------|----------|
| ATTORNEY, EXPERT, AND ADVOCATE FEES   |                    |       |         |                                |             |            |      |          |
| Item  | Year               | Hours | Rate    | Basis for Rate*                | Total \$    | Hours      | Rate | Total \$ |
| Michael Shames  | 2011               | 12.20 | \$535   | Rate requested in attachment 1 | \$6,527     |            |      |          |
| Michael Shames  | 2012               | 6.60  | \$535   | Rate requested in attachment 1 | \$3,531.00  |            |      |          |
| David Pepper  | 2012               | 41.25 | \$200   | Rate requested in attachment 2 | \$8,250     |            |      |          |
| Laura Norin (MRW)   | 2011 (through Nov) | 25.75 | \$220   | Rate requested in attachment 3 | \$5,665     |            |      |          |
| Laura Norin (MRW)   | 2011 (Dec)         | 0.25  | \$230   | Rate requested in attachment 3 | \$57.5      |            |      |          |
| Laura Norin (MRW)   | 2012               | 8.75  | \$230   | Rate requested in attachment 3 | \$2,012.5   |            |      |          |
| Steven McClary (MRW)  | 2011               | 10.0  | \$300   | Rate requested in attachment 3 | \$3,000     |            |      |          |
| Briana Kobor (MRW)  | 2011               | 50.75 | \$135   | Rate requested in attachment 3 | \$6,851.25  |            |      |          |
| Briana Kobor (MRW)  | 2012               | 1.0   | \$135   | Rate requested in attachment 3 | \$135       |            |      |          |
|   | Subtotal:          |       |         |                                | \$36,029.25 | Subtotal:  |      |          |
| OTHER FEES  |                    |       |         |                                |             |            |      |          |
| Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.): |                    |       |         |                                |             |            |      |          |
| Item  | Year               | Hours | Rate    | Basis for Rate*                | Total \$    | Hours      | Rate | Total \$ |
| Peffer - Travel   | 2012               | 8     | \$100   | ½ of \$200 hourly rate         | 800.00      |            |      |          |
| [Person 2]  |                    |       |         |                                |             |            |      |          |
|   | Subtotal:          |       |         |                                |             | Subtotal:  |      |          |
| INTERVENOR COMPENSATION CLAIM PREPARATION **  |                    |       |         |                                |             |            |      |          |
| Item  | Year               | Hours | Rate    | Basis for Rate*                | Total \$    | Hours      | Rate | Total \$ |
| Laura Norin   | 2013               | 4.75  | \$122.5 | Half of                        | \$582       |            |      |          |

|                   |           |  |       |                       |           |                 |  |  |
|-------------------|-----------|--|-------|-----------------------|-----------|-----------------|--|--|
|                   |           |  |       | standard rate         |           |                 |  |  |
| Steven McClary    | 2013      | 1  | \$150 | Half of standard rate | \$150     |                 |  |  |
|                   | Subtotal: |  |       |                       | \$732     | Subtotal:       |  |  |
| COSTS             |           |  |       |                       |           |                 |  |  |
| #                 | Item      | Detail   |       |                       | Amount    | Amount          |  |  |
|                   | Travel    | Airport parking, Airfare, taxi, BART to airport. |       |                       | 454.60    |                 |  |  |
| Subtotal:         |           |  |       |                       | 454.60    | Subtotal:       |  |  |
| TOTAL REQUEST \$: |           |  |       |                       | 38,015.85 | TOTAL AWARD \$: |  |  |

\*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

\*\*Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate

| Attorney       | Date Admitted to CA BAR <sup>2</sup> | Member Number | Actions Affecting Eligibility (Yes/No?)<br>If "Yes", attach explanation   |
|----------------|--------------------------------------|---------------|---|
| Michael Shames | June 3, 1983                         | 108582        | No; please note from January 1, 1986 until January 15, 1987 and January 1, 1988 until October 5, 2011, Michael Shames was an inactive member of the California State Bar. |
| David Pepper   | June 2, 2010                         | 270479        | No  |

### C. CPUC Disallowances & Adjustments:

| # | Reason   |
|---|--|
|   | Because we find no substantial contribution, we do not reach the issue of whether the claimed attorney, expert and advocate fees are reasonable. |

<sup>2</sup> This information may be obtained at: <http://www.calbar.ca.gov/>.

**PART IV: OPPOSITIONS AND COMMENTS**

|   |    |
|---|----|
| <b>A. Opposition: Did any party oppose the Claim?</b> | No |
|---|----|

|  |    |
|--|----|
| <b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?</b> | No |
|--|----|

If not:

| <b>Party</b> | <b>Comment</b>          | <b>CPUC Disposition</b> |
|--------------|-------------------------|-------------------------|
|              | No comments were filed. |                         |
|              |                         |                         |

**FINDINGS OF FACT**

1. Claimant has not made a substantial contribution to Decision 13-03-023.

**CONCLUSION OF LAW**

1. The Claim should be denied.

**ORDER**

1. The Utility Consumer Action Network's request for an award of compensation for substantial contribution to Decision 13-03-039 is denied.
2. The comment period for today's decision is not waived.

This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

|                                  |             |                           |    |
|----------------------------------|-------------|---------------------------|----|
| <b>Compensation Decision:</b>    |             | <b>Modifies Decision?</b> | no |
| <b>Contribution Decision(s):</b> | D1303029    |                           |    |
| <b>Proceeding(s):</b>            | A1105023    |                           |    |
| <b>Author:</b>                   | ALJ Yacknin |                           |    |
| <b>Payer(s):</b>                 | N/A         |                           |    |

**Intervenor Information**

| <b>Intervenor</b>                | <b>Claim Date</b> | <b>Amount Requested</b> | <b>Amount Awarded</b> | <b>Multiplier?</b> | <b>Reason Change/Disallowance</b> |
|----------------------------------|-------------------|-------------------------|-----------------------|--------------------|-----------------------------------|
| Utility Consumers Action Network | 5/28/2013         | \$38,015.85             | \$0.00                | No                 | No substantial contribution       |

**Advocate Information**

| <b>First Name</b> | <b>Last Name</b> | <b>Type</b> | <b>Intervenor</b> | <b>Hourly Fee Requested</b> | <b>Year Hourly Fee Requested</b> | <b>Hourly Fee Adopted</b> |
|-------------------|------------------|-------------|-------------------|-----------------------------|----------------------------------|---------------------------|
| n/a               | n/a              | n/a         | n/a               | n/a                         | n/a                              | n/a                       |

**(END OF APPENDIX)**